

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

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Plaintiff

and

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KATHY C. KOCH

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Intervenor/Plaintiff

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v.

Civil No. S-02-CV-648

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LA WEIGHT LOSS

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Defendant

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STATEMENT OF KATHY C. KOCH FOR COSTS AND ATTORNEYS' FEES

Intervenor Plaintiff, Kathy C. Koch, with the Affidavit of her counsel, Pamela J. White of Ober, Kaler, Grimes & Shriver, A Professional Corporation, submits her Statement in Support of Costs and Attorneys' Fees, pursuant to this Court's Letter Order dated April 6, 2004 and Federal Rule of Civil Procedure 37 (a)(4)(A).

By Letter Order dated April 6, 2004, this Court found that Defendant LA Weight Loss has engaged in numerous discovery violations, ordering, in turn, substantial supplementation of interrogatory answers and document production. The Court's unfortunate involvement in the discovery dispute was the result of LA Weight Loss' ongoing refusal to supplement its vague, non-responsive interrogatories and refusal to identify or produce relevant documents contemporaneous to Kathy Koch's employment, or to explain their destruction, or to provide a log of relevant but allegedly privileged communications about Ms. Koch. LA Weight Loss has

been obstructive, has imposed severe inconvenience and hardship on Koch, and has caused Ms. Koch to incur extraordinary legal expenses.

Kathy Koch seeks reasonable attorneys' fees and costs incurred in continued attempts to obtain adequate discovery from LA Weight Loss, including the fees incurred in the filing of her motion to compel and reply memorandum. Attached to this Statement is a chronological description of specific tasks and time recorded by Ms. Koch's attorneys in their pursuit of relevant discovery information. (Exhibit B to Affidavit of Pamela J. White), which is supported by counsel's Affidavit setting forth the credentials of the attorneys and their respective hourly rates (Exhibit 1).

In support of her request for costs and attorneys' fees, Ms. Koch refers and relies upon her Motion to Compel, Reply memorandum, and especially her Local Rule 104.7 Certificate previously filed with this Court. Ms. Koch's Good Faith Certificate detailed successive efforts undertaken by counsel to resolve the discovery disputes before requesting the Court's assistance and attention to her Motion to Compel. The Certificate reflects that from about September 5, 2003 until February 23, 2004, Plaintiff and Defendant engaged in over 20 communications, attempting to resolve the discovery disputes.

Guided by Appendix B of the Rules of the U.S. District Court of Maryland and Rule 1.5 of the Maryland Rules of Professional Conduct, counsel describes, below, several phases or stages of discovery disputes with Defendant, also estimating the corresponding time spent, the value of such time and any appropriate adjustments.

A. Early Attempts to Resolve Defendant's Deficient Interrogatory
Answers and Document Production

After unsuccessful efforts to challenge Defendant's discovery responses in the Spring of 2003, for about a month during the period from July 2003 until August 2003, Koch prepared

comprehensive correspondence concerning Defendant's deficient discovery production and research regarding disputed objections.

<u>Attorney</u>	<u>Hours</u>	<u>Rate</u>	<u>Value</u>
White	4.4	325.00	1430.50
Bailey	<u>2.3</u>	170.00	<u>391.00</u>
Totals	6.7		\$ 1,821.50

B. Time Incurred in Preparation of Koch's Motion to Compel And Ongoing Communications With Defendant Regarding Discovery Disputes

In August and September 2003, counsel undertook substantial research, document review, case analysis, motion drafting and continued correspondence with Defendant. Attorney activities and fees incurred in preparing the motion to compel and related activities included:

<u>Attorney</u>	<u>Hours</u>	<u>Rate</u>	<u>Value</u>
White	10.7	325.00	3,477.50
Bailey	<u>20.8</u>	170.00	<u>3,536.00</u>
Totals	31.5		\$ 7,013.50

C. Continued Communications with Defendant To Resolve Issues Set Forth In Koch's Motion To Compel

During October and November 2003, counsel for Ms. Koch continued to correspond with Defendant concerning inadequate discovery, reviewed supplemental document production, and outstanding requests.

<u>Attorney</u>	<u>Hours</u>	<u>Rate</u>	<u>Value</u>
White	1.6	325.00	520.00
Bailey	<u>5.1</u>	170.00	<u>867.00</u>
Totals	6.7		\$ 1,387.00

D. Attention to Defendant's Opposition to Motion to Compel and Preparation of Reply Memorandum

This time, expended in November 2003 through January 2004, reflects attention to Defendant's Opposition to Ms. Koch's Motion to Compel, related research and drafting of the Reply Memorandum. Time incurred in researching and preparing the Reply also includes review and analysis of all applicable Rules, including research regarding request for sanctions.

<u>Attorney</u>	<u>Hours</u>	<u>Rate</u>	<u>Value</u>
White	2.1	325.00	682.50
Bailey	<u>14.8</u>	170.00	<u>2,516.00</u>
Totals	16.9		\$ 3,198.50
NEW	BILLING	RATE	
White	13.4	335.00	4,489.00
Bailey	.2	195.00	39.00
Bannister	<u>1.1</u>	115.00	<u>126.50</u>
Totals	14.7		\$ 4654.50
Grand Total	31.6		\$ 7,853.00

E. Continued Communications With Defendant Subsequent to the Filing of Reply Memorandum

After filing of Ms. Koch's Reply Memorandum, throughout the rest of January 2004, counsel for Koch continued to review and analyze the status of the discovery disputes and engaged in several teleconferences with Defendant regarding the same.

<u>Attorney</u>	<u>Hours</u>	<u>Rate</u>	<u>Value</u>
White	1.6	335.00	536.00
Bailey	<u>4.4</u>	195.00	<u>858.00</u>
Totals	6.0		\$ 1,394.00

F. Final Filing of Motion to Compel and Preparation for Hearing

Time incurred in this stage, during the months of February and March 2004, relates to the submission of Ms. Koch's Motion to Compel with the Court, drafting of the Good Faith

Certificate, and related review of the Rules. It also reflects time spent reviewing Defendant's supplemental answers to Ms. Koch's interrogatories, preparing for and attending the Court's hearing.

<u>Attorney</u>	<u>Hours</u>	<u>Rate</u>	<u>Value</u>
White	8.3	335.00	2,780.50
Bailey	2.7	195.00	526.50
Bannister	.4	115.00	46.00
Totals	11.4		\$ 3353.00

For the foregoing reasons and the reasons set forth in Ms. White's affidavit, Ms. Koch respectfully requests an award of reasonable attorneys' fees and expenses incurred expenses incurred in connection with the discovery disputes perpetuated by Defendant in the amount of \$22,822.00.

Respectfully submitted,



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